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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/242,014 04/05/99 SCHMITT

A CM11890

EXAMINER

QM12/0118

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WEER, J

ART UNIT

PAPER NUMBER

3761

DATE MAILED:

01/18/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/242,014

Applicant(s)

SCHMITT, ACHIM

Examiner

Jamisue A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in EP on 3/30/96. It is noted, however, that applicant has not filed a certified copy of the application as required by 35 U.S.C. 119(b).

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. With respect to Claim 1: Applicant recites "side edges which from part of the leg opening" (page 20, lines 6-7). The statement "which from part of" is grammatically incorrect and it is unclear to the examiner what the applicant is trying to claim.
5. Claim 1 recites the limitation "the crotch portion" in line 1. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 10 recites the limitation "said attachment" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Widlund (5,454,804). Widlund discloses a sanitary napkin (see figures 1-6) for wearing in the crotch portion of a pair of underpants (9), with longitudinal and transversal side edges (see figures 1 and 5), a wearer facing topsheet (1) and a garment facing casing backsheet (2), with flexible side flaps (4,5) that are intended to be folded around the edges of the leg openings of wearer's underpants. Widlund discloses that the flaps are joined with their free edge parts extending inwardly over the absorbent pad on the side of the casing remote from the wearer when the article is in use (column 2, lines 44-47), therefore the side flaps have a predisposition to assume the in-use position, away from the wearer. Widlund also discloses the side flaps, or wrapping elements, can be formed by having the casing sheets extend beyond the side edges of the absorbent core (column 2, lines 19-23) or the side flaps can be separate elements from the main body portion and are attached along the longitudinal edge of the garment wearing casing sheet (Figure 3). Widlund discloses the wrapping elements having fold lines (6,7) where the wrapping elements and the main body portion are severed (Figure 3). Widlund discloses the wrapping elements are less than half the length of the fold lines (6,7) and are relatively in the center of the fold lines (see figure 4&5), therefore it is the examiners opinion that the wrapping elements are

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being joined at less than 50% of the length of the fold lines. Widlund also further discloses that the part of the edge joins (12, 13) is much longer than the actual join (column 6, lines 31-33), the examiner takes this to mean that the length where the wrapping elements and the main body portion are joined, is much less than the length that they are not, therefore it is the examiner's position that the wrapping elements are only joined at less than 50% of the total length of the longitudinal edge. Widlund discloses the wrapping elements being equipped with adhesive regions (14, 15).

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Seidy (5,125,918).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (8:30 - 5:00).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw   
December 26, 2000

  
**DENNIS RUHL**  
**PRIMARY EXAMINER**